

BY AUTHORITY

ACT 46.

An Act to Establish and Regulate the National Guard of Hawaii, and Repealing all Inconsistent Legislation.

BE IT ENACTED by the Executive and Advisory Councils of the Provisional Government of the Hawaiian Islands:

SECTION 1. The organized and uniformed military force of the Provisional Government of the Hawaiian Islands is known as the National Guard of Hawaii. This force shall not exceed twelve companies, and must be located throughout the Islands with reference to the military wants thereof, means of concentration and other military requirements. Provided, however, that the Commander-in-Chief may, with the approval of the Executive Council, organize bodies of sharpshooters, which shall, upon being organized, be a part of the National Guard of Hawaii, and subject to its regulations and entitled to its immunities, except that such bodies of sharpshooters shall not be uniformed nor subject to drill duties unless called out on active service, and shall not necessarily be a part of any battalion or regimental formation.

Sec. 2. All of the companies of the National Guard, except companies of sharpshooters, must be joined together in a battalion or regiment.

Sec. 3. The President is Commander-in-Chief of the National Guard.

Sec. 4. The staff of the Commander-in-Chief may consist of one Adjutant, with the rank of Lieutenant-Colonel, one Quartermaster, one Ordnance Officer, each with the rank of Major, two Aides-de-Camp, each with the rank of Captain, appointed by and holding office at the pleasure of the Commander-in-Chief, or until their successors are appointed and qualified.

Sec. 5. Every officer of a regiment, battalion or company accepting any staff appointment is held to have resigned his commission in such regiment, battalion or company.

Sec. 6. All officers and soldiers of the National Guard, on becoming members and before performing duty, and at each subsequent re-enlistment, must take and subscribe to the following oath, which all commissioned officers thereof are empowered to administer: "I do solemnly swear that I will support the Provisional Government of the Hawaiian Islands, and will maintain and defend the laws and all officers employed in administering the same, and that I will serve in the National Guard of Hawaii as..... for the term of one year, provided that the Government should so long require my services." Which oath, certified by the officer administering the same, must be returned to the regimental or battalion Adjutant and be preserved with the rolls of companies; oaths of re-enlistment shall show on the margin the number of re-enlistment.

Sec. 7. The uniform of the National Guard is the same as that adopted and in use by similar troops in the Army of the United States.

Sec. 8. The systems of instruction prescribed for the different arms of the United States Army must be followed in the military drills and instruction by the National Guard.

Sec. 9. All commissioned officers of the National Guard must take rank according to the date assigned them by their commissions; and when two of the same grade are of the same date, their rank must be determined by length of previous military service in the Government, and if of equal service, then by lot.

Sec. 10. When an officer is re-elected to new commission issues, but a certificate of such election must be issued to him by the Commander-in-Chief.

Sec. 11. Any officer resigning his commission must do so in writing, addressing the Adjutant of the General Staff, giving his reasons therefor, and transmit the same through his immediate commanding officer, who will make his endorsement thereon; and the resignation takes effect when accepted by the Commander-in-Chief and announced in orders.

Sec. 12. Vacancies in elective offices of the National Guard, not in active service, are filled by election. When vacancies occur at any election through the promotion of any officer, such vacancies may then and there be filled without further order. Elections of company officers shall be presided over by an officer appointed for that purpose by the Commander-in-Chief, and such presiding officer shall give at least seven days notice of his appointment to all parties interested, by causing the order appointing him to be posted in the company armory and read to the company. He shall within three days following the election report the result of said election to the Commander-in-Chief.

Sec. 13. Any commissioned officer who removes from the Hawaiian Islands for more than thirty days, without permission of the Commander-in-Chief, is deemed to have resigned, and such regulations shall be announced in orders from the office of the Adjutant of the General Staff immediately after the fact of such absence becomes officially known.

Sec. 14. Any enlisted man may be

discharged before the expiration of his term of service, by order of the commanding officer of the battalion or regiment, or the recommendation of his company commander, and for any of the following reasons: To accept promotion by commission, upon removal of residence out of the bounds of the command to which he belongs, to so great a distance that, in the opinion of such commanding officer, he cannot properly perform his military duty; upon disability, established by certificate of a medical officer. Or he may be dishonorably discharged for either of the following reasons: Upon conviction of felony in a civil court; by sentence of a court-martial.

Sec. 15. Any officer, non-commissioned officer or soldier who disobeys the order of his superior, or misbehaves or demeans himself in an unsoldier-like manner whilst under military orders, must be immediately arrested. If a non-commissioned officer or soldier on military duty, he must be disarmed and put under guard, and tried and punished by a court-martial, according to law and military usage.

Sec. 16. Regimental, battalion and company rules of government, and by-laws regularly adopted by a majority of the elected officers of such regiment or battalion, or members of companies, and approved by the Commander-in-Chief, may be adopted and enforced in such regiment, battalion or companies if they are not in conflict with the laws and regulations of the Provisional Government.

Sec. 17. All fines and penalties for non-attendance upon drills, parades and inspections, legally determined and imposed under the provisions of such rules and by-laws, may be collected by action in the District Court, in the name of the Provisional Government; and the books and records of the regiment, battalion or companies, and the proceedings under which delinquents are fined, are prima facie evidence of the facts therein stated.

Sec. 18. All officers and soldiers of the National Guard who comply with all military duties as provided in this Act are entitled to exemption from the payment of poll-tax, school tax and road tax; and all officers and soldiers in active service shall be exempt from jury service.

Sec. 19. The Adjutant of the General Staff must make out, on or before the 15th day of July of each year, a complete roll of the military forces of each taxation district, as they appeared on the records of his office July 1st, and furnish a copy of the same, duly sworn to, to the Assessors of the districts wherein such force is located.

Sec. 20. The Commander-in-Chief may at any time, by and with the consent of the Executive and Advisory Councils, for good and sufficient reasons, disband any portion of the National Guard.

Sec. 21. The rules and regulations of the Army of the United States, so far as the same may be applied and not inconsistent with the laws of this government, and the rules and regulations prescribed from time to time, by the Commander-in-Chief, shall constitute the rules and regulations for the government of the National Guard.

Sec. 22. No officer is entitled to charge or receive any fee or compensation for administering or certifying any oaths administered or certified under the provisions of this Act.

Sec. 23. The Commander-in-Chief is authorized and has power to establish and prescribe such rules and regulations, forms and precedents not inconsistent with the provisions of the laws, as he may deem proper for the use, government and instruction of the National Guard, and to carry into full effect the provisions of the laws relative thereto. Such rules, regulations, forms and precedents shall, from time to time, be revised, as may be deemed necessary, and shall be promulgated in orders and compiled in such form as may be deemed advisable for the information of the National Guard.

Sec. 24. No military organization provided for in this Act shall, either for ceremony or duty, carry any flag of any State or nation except that of the Provisional Government of the Hawaiian Islands.

Sec. 25. Whenever a sufficient number of persons, subject to military duty, subscribe a call for the organization of a company, the Commander-in-Chief, upon the application of such persons, and by and with the consent of the Executive and Advisory Councils, must appoint a time and place of meeting, for the purpose of organization, and detail an officer to preside over the same.

Sec. 26. The officer detailed must preside at the meeting and organize the same, superintend the election of commissioned officers of the company, which must be by ballot; after the election he must make out a list of the persons organized, a certificate of each officer elected, and transmit the same to the Commander-in-Chief.

Sec. 27. If such company has been organized and the officers elected in accordance with the provisions of law, orders and regulations, the company must be listed as a company of the National Guard, and the elected officers, if commissioned, hold office for the term of one year, or until their successors are duly commissioned.

Sec. 28. All commissioned officers of the National Guard shall be commissioned by the Commander-in-Chief, but he may refuse to issue a commission to any officer elected or appointed, if, in his opinion, the person elected or appointed

is in any way unqualified or unworthy to be an officer in the National Guard.

Sec. 29. All company non-commissioned officers of the National Guard must be nominated by the commanders of their respective companies, subject to the approval of the commander of the regiment or battalion; and such non-commissioned officers cannot thereafter be removed or reduced in rank, except as herein provided, or by the commander of the regiment or battalion, for neglect of duty or other sufficient cause.

Sec. 30. The companies of the National Guard are armed and equipped in the same manner as similar corps in the United States Army.

Sec. 31. Companies of the National Guard shall consist of not less than fifty nor more than one hundred and three officers and privates. They shall be organized as follows: one Captain, one First Lieutenant, one Second Lieutenant, one First Sergeant, five Sergeants, eight Corporals, two Musicians, one Marker, and not less than thirty nor more than eighty-three privates.

Sec. 32. All arms, equipments, and military stores, books, accounts and records of all kinds are subject to examination by any officer authorized by the Commander-in-Chief, or other commanding officer, to inspect the same.

Sec. 33. There must be an annual inspection and muster of all the troops of the National Guard in the month of June of each year, by regiment, battalion, or company, as may be deemed advisable by the Commander-in-Chief, and the commanding officer of each company must make out and certify duplicate muster rolls, showing the names and number of the members of the company, the officers in the order of their rank, and the privates in alphabetical order; and he must also attach to each roll a list of the ordnance, ordnance stores, accoutrements, clothing and other property of the government in possession of the company; a statement of the manner in which all moneys received from the government for the previous year have been expended, together with such other information as the Commander-in-Chief may require. These lists are to be delivered by the company commander to the inspecting officer, one copy to be forwarded by him to the Adjutant of the General Staff, and one copy to regimental or battalion headquarters.

Sec. 34. 1. Every elected officer of the National Guard must, upon his election to any office in the National Guard, appear before an Examining Board for examination as to his qualifications for the office to which he has been elected. 2. Such Board of officers shall consist of three commissioned officers, to be designated by the Commander-in-Chief, any of whom may be removed at his pleasure. 3. The officer duly appointed to preside at any election shall, immediately after declaring the result of such election, notify the officer or officers elected that they must appear before the Examining Board for examination when notified by that Board. 4. If the officer elected and duly notified does not appear before the said Examining Board when summoned by them, he shall, unless satisfactory cause be shown for such non-appearance, be deemed to have declined his commission, and there shall be another election ordered. The filing of a proper certificate of said Board with the Adjutant of the General Staff that the officer has failed to pass an examination, or declined to appear before the Board when notified, shall be deemed sufficient cause for ordering a new election. 5. The Board shall notify the candidate for a commission to appear for examination within seven days from the date of his election, they shall thoroughly examine him as to his military and general qualifications, and, if, in the opinion of the majority of the Board, he is duly qualified, the fact shall be duly certified to the Commander-in-Chief. The Board shall examine the candidate as to his knowledge in the following:

1. The prescribed tactics. 2. The laws and regulations governing the National Guard. 3. Forms of military orders, correspondence, records, and also as to general qualifications.

Sec. 35. Applications for membership in any company of the National Guard shall only be made at a regular weekly assemblage of such company; and the name of such applicant shall be posted in a conspicuous place in the company quarters or armory, until the next succeeding regular weekly assemblage of such company, at which time and not before, such applicants may be balloted for by the company. Provided, however, that soldiers may be enlisted as required in companies on active service.

Sec. 36. The Commander-in-Chief shall have authority to appoint and commission officers of companies on active service in case of vacancy. The commission of any officer called into active service continues until he is discharged by order of the Commander-in-Chief. Any officer while on active service shall be subject to removal by order of the Commander-in-Chief.

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Sec. 38. 1. No soldier shall wear or use, except when on military duty, or by special permission of his commanding officer, any uniform or other article of military property belonging to the government or to the company of which he is a member. 2. No officer in charge of public property for military use, shall transfer any

portion thereof, either as a loan or permanently, without the authority of the next superior commander.

Sec. 39. No parade or voluntary service shall be performed by a regiment, battalion or company, under arms or in uniform, without the approval of the next superior authority.

Sec. 40. A regiment of the National Guard consists of not less than six, and not more than twelve companies. Any less number of companies than six constitute a battalion.

Sec. 41. The field officers of the National Guard are one Colonel, one Lieutenant-Colonel and one Major.

Sec. 42. Such field officers are elected by the commissioned officers of the regiment or battalion, excepting staff officers, and hold office for the term of two years, and until their successors are duly qualified.

Upon the application of such officers entitled to elect, the Commander-in-Chief must appoint an officer to preside at the election, who must give notice of his appointment, of the time and place of holding such election, and of the office to be filled, which notice must be published at least five days previous to the election in some newspaper published in Honolulu, or by posters for such term. The Commander-in-Chief may order an election of field or line officers if an application is not made for an order for election within thirty days after the vacancy occurs, or after the expiration of the term for which the officer was last elected.

Sec. 43. Such presiding officer must make a report of the election held to the Commander-in-Chief, who, if he approves, shall issue the commission. In all elections for commissioned officers a majority of the votes of those present shall be necessary to a choice. In order to the validity of such election there must be present at least a majority in number of the officers entitled to vote.

Sec. 44. The present field and line officers of the battalion shall hold office for the term of two years, and one year respectively from the dates of their present commission, and thereafter until their successors are commissioned.

Sec. 45. The staff of the Colonel, Lieutenant-Colonel or Major, commanding the regiment or battalion, consists of one Adjutant, one Quartermaster, one Ordnance Officer, and one Surgeon, each with the rank of Captain, who are appointed by the commanding officer, and hold office at his pleasure, or until their successors are appointed and qualified.

The non-commissioned staff consists of one Sergeant-Major, one Quartermaster-Sergeant, one Ordnance-Sergeant, one Hospital Steward, two Color-Sergeants and one Drum-Major, with the rank of Sergeant-Major.

Sec. 46. The Colonel may concentrate the Musicians of the different companies and organize the same as a drum-corps under charge of the Drum-Major.

Sec. 47. Each company of the National Guard must assemble at least once a week for drill and military instruction.

Sec. 48. The commanders of companies must keep a book in which must be entered the names and number of officers, non-commissioned officers, musicians and privates respectively, present at each drill, and must therefrom make monthly returns to the commanding officer of the regiment or battalion. These books must be carefully preserved and when filed returned to the Adjutant.

Sec. 49. Officers and soldiers while on active service of the Government receive such pay as may be determined by the Executive and Advisory Councils.

Sec. 50. The following officers may appoint Courts-martial:

1. The Commander-in-Chief, for the trial of all officers. 2. The regimental or battalion commander, for the trial of all enlisted men of his command.

3. The officer ordering the said Court shall fix the day on which it shall convene, and when convened the Court may adjourn from time to time as shall become necessary for the transaction of business, but the whole session of the Court, from the day on which it shall convene until its dissolution, shall not exceed three weeks; and in case any vacancy shall happen in the Court, or a new Court shall be required, the officer ordering the Court, or his successor in command may fill such vacancy or order a new Court.

4. The officer or officers constituting such Court shall, before entering on his or their duties as such, take the following oath: "I do swear that I will well and truly try and determine according to evidence all matters between the Provisional Government and any person or persons who may come before the Court-martial to which I have been appointed." 5. The Court when organized shall have the trial of all offenses, delinquencies and deficiencies that occur in the regiment or battalion for which it shall have been appointed; and the said Court shall have power to impose and direct to be levied all the fines or penalties to which enlisted men are declared to be subject by the provisions of this Act.

Sec. 51. Courts-martial appointed under the provisions of this Act are organized in like manner, and subject to the rules and regulations covering the Courts-martial in the United States Army, so far as the same may be applicable and not inconsistent with the

laws of this government and the rules and regulations and forms established by the Commander-in-Chief.

They have the same power to compel the attendance of witnesses when summoned by them, to preserve order in and about the court-room during sessions, and to punish for contempt, as the Judges of the District Courts have under the laws of this government.

Sec. 52. For the purpose of collecting fines or penalties imposed by court-martial, the president of any such court must make out a list of all such fines and penalties, and of the persons against whom they have been imposed, and must, within fifteen days after the fines and penalties have been imposed, issue a warrant under his hand, directed to the Marshal or his deputy, or the Sheriff of any island or his deputy, or the paymaster of the regiment or battalion, commanding him to levy and collect such fines, together with costs, upon and out of any property of the person against whom the fine or penalty was imposed; and such warrant may be executed and renewed in the same manner as executions issued from district courts are executed and renewed.

Sec. 53. In time of peace, every commissioned officer, for disobedience of orders, neglect or ignorance of duty, unauthorized conduct or disrespect to a superior officer, or for neglect to comply with any of the requirements of this Act, shall be arrested and brought to trial before a general court-martial, which may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission, fined to an amount not exceeding one hundred dollars, or reprimanded, or may sentence him to all or either of such fines or penalties in their discretion.

Sec. 54. Every non-commissioned officer shall, on due conviction by a regimental or battalion court-martial, be subject to the following penalties: Reduction to ranks, dishonorable discharge, reprimand, fine not exceeding one hundred dollars.

Musicians and privates shall, on due conviction by a regimental or battalion court-martial, be subject to the following penalties: Reprimand, dishonorable discharge, fine not exceeding fifty dollars.

General courts-martial for the trial of commissioned officers shall consist of not less than five nor more than seven officers, all of whom, if possible, must be senior in rank to the accused.

Regimental or battalion courts-martial shall consist of not less than one nor more than three commissioned officers. If consisting of one officer, he shall not be of lower rank than that of captain.

Sec. 55. Any and all fines under judgment of courts-martial must be collected by the paymaster, who at the same time is authorized, for the recovery of any fine or fines from any officer or soldier, to deduct the amount then owing from any moneys due such officer or soldier; all fines collected shall be paid into the public treasury as a government realization.

Sec. 56. In case of war, insurrection, rebellion, or of resistance to the execution of the laws of this government, the National Guard, or any part thereof, may be called into active service upon the call or requisition of the President of the Provisional Government of the Hawaiian Islands.

Sec. 57. Any member of the National Guard who neglects or refuses to rendezvous, when ordered out by the President, is guilty of disobedience of orders, and may be tried and punished by a court-martial.

Sec. 58. All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Sec. 59. This Act shall take effect from the date of its publication.

Approved this 15th day of August, A. D. 1893.

[Signed.] SANFORD B. DOLE, President of the Provisional Government of the Hawaiian Islands.

[Signed.] J. A. KING, Minister of the Interior.

Regulation of the Bureau of Agriculture and Forestry.

In order to prevent the spread of blight and insect pest from the Island of Oahu to the other Islands, the Bureau of Agriculture and Forestry hereby make the following regulation:

SECTION 1.—From and after the 7th day of August, 1893, it shall be unlawful for any vessel to receive on board and carry from Honolulu or from any port or landing on the Island of Oahu, any trees or plants of whatever character to any other part of the Hawaiian Islands, except as herein provided.

SECTION 2.—Any trees and plants brought to Oahu from any foreign country, and intended to be transhipped to one of the other Islands may be carried by any licensed vessel; provided such plants or trees have been inspected and passed as provided in Section 3 of an Act entitled "An Act Relating to the Suppression of Plant Diseases, Blight and Insect Pests," approved July 18th, 1890, and a certificate to that effect obtained. And also, be it further provided that such trees or plants shall be removed from the wharf at which the trees or plants shall have been landed, until such time as the vessel, that is to carry them to their destination, is ready to receive them on board.

SECTION 3.—Any person violating any of the provisions of this regulation will be liable to a fine of not to exceed one hundred dollars as provided by Section 7 of said Act.

J. A. KING, Minister of the Interior. Interior Office, August 4, 1893. 3449 1491-34

In accordance with Section 1, Chapter XXXV of the Session Laws of 1888, I have this day changed the location of the Government Pound at Keane, Koolan, Maui, to a piece of land situated on the makai side of the Government Road at Keane.

D. W. NAPIHAA has this day been appointed Poundmaster for the above Pound in place of B. B. Kalilimoku, resigned.

J. A. KING, Minister of the Interior. Interior Office, August 16, 1893. 3460 1493-31

SALE OF TENANCY AT WILL Of the Chinese Theatre, King Street, Honolulu, Oahu.

On FRIDAY, September 1st, 1893, at 12 o'clock noon, at the front entrance of the Executive Building, will be sold at public auction, the Tenancy at Will of the Chinese Theatre Building, situate on King Street, Honolulu, Oahu.

Term—Tenancy from month to month until such time as the Minister of Interior may wish to terminate the same by giving 30 days notice.

Rent—Payable monthly in advance. J. A. KING, Minister of the Interior. Interior Office, August 1st, 1893. 3446-31 1491-31

Provisional Government of the Hawaiian Islands.

COUNCIL CHAMBER, HONOLULU, August 17, 1893.

At a meeting of the Executive and Advisory Councils held this day, Hon. FRANCIS M. HATCH was elected Vice-President of the Provisional Government in place of Hon. William C. Wilder, resigned.

CHARLES T. RODGERS, Secretary Executive and Advisory Councils. 3460 1493-31

DEPARTMENT OF FINANCE, HONOLULU, H. I., August 7th, 1893.

From and after the 15th day of August, payments at the Treasury on account of salaries and pay rolls, will be made only on the 15th of the month and the last day of the month. When these dates fall on Sunday or a public holiday, payments will be made on the day previous.

G. E. SMITHIES, Registrar Public Accounts.

Approved: S. M. DAMON, Minister of Finance. 3457 1493-32

PROCLAMATION.

EXECUTIVE BUILDING, HONOLULU, June 30, 1893.

It is hereby ordered that until further notice, the right of the writ of Habeas Corpus is hereby suspended and Martial Law is hereby declared to exist in and throughout the Districts of Hanalei and Waimea, on the island of Kauai.

(Signed,) SANFORD B. DOLE, President of the Provisional Government of the Hawaiian Islands and Minister of Foreign Affairs.

Approved:

J. A. KING, Minister of the Interior. W. O. SMITH, Attorney-General. 3420 1486-41

Mr. GEO. J. McCARTY has this day been appointed Poundmaster for the Government Pound at Waikae, Hilo, Hawaii, vice C. B. Maa, resigned.

J. A. KING, Minister of the Interior. Interior Office, August 11, 1893. 3455 1492-31

FREDERICK W. HARDY, Esq., has this day been appointed an agent to take acknowledgments to labor contracts for the District of Makawao, Island of Maui.

J. A. KING, Minister of the Interior. Interior Office, August 5, 1893. 3450 1491-31

Mr. THEODORE F. LANSING has been appointed a member of the Board of Health, vice J. O. Carter, resigned. Honolulu, July 26, 1893. 3447 1491-31

MESSRS. H. DEACON, C. C. KENNEDY and W. G. KAHENUI have this day been appointed members of the Road Board for the Taxation District of Hilo, Hawaii, vice former Board removed.

J. A. KING, Minister of the Interior. Interior Office, August 11th, 1893. 1492-3

Any kind of printing at the GAZETTE Office equal to work done abroad.